

NO: 28159

IN THE SUPREME COURT OF THE STATE OF HAWAII

C. KAUI JOCHANAN AMSTERDAM
Candidate for the US Senate

Plaintiff

vs.

DWAYNE D. YOSHINA
Chief Elections Officer for the
State of Hawaii

Defendant

PLAINTIFF'S MOTION FOR
RECONSIDERATION; EXHIBIT
A, B

K. KAMAKAKO
SUPREME COURT
STATE OF HAWAII

16 OCT 12 PM 3:51

PLAINTIFF'S MOTION FOR RECONSIDERATION

Plaintiff, C. Kaui Jochanan Amsterdam, hereby presents a motion for reconsideration of complaint filed in the entitled case and for an order to sustain the complaint and advance the Plaintiff to be on the General Election Ballot as a candidate for the US Senate. This motion is made pursuant to Rule 40(a)(b) et al, Hawaii Rules of Civil Procedure and is made with particularity the points of law or fact the court may have overlooked or misapprehended, together with a brief argument on the points raised and supported herewith by the Plaintiff's declaration to the effect that such a motion is presented in good faith and not for the purpose of delay.

Dated: Honolulu, Hawaii, October 12, 2006



C. Kaui Jochanan Amsterdam
Candidate for the US Senate
PRO SE

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C. KAUI JOCHANAN AMSTERDAM	}	PLAINTIFF'S MOTION FOR RECONSIDERATION, EXHIBIT A, B
Candidate for the US Senate	}	
Plaintiff	}	
vs.	}	
DWAYNE D. YOSHINA	}	
Chief Elections Officer for the		
State of Hawaii		
Defendant	}	

PLAINTIFF'S MOTION FOR RECONSIDERATION

MEMORANDUM IN SUPPORT
OF PLAINTIFF'S MOTION FOR RECONSIDERATION

C. KAUI JOCHANAN AMSTERDAM
1415 Pensacola St., # 12
Honolulu, Hawaii 96822
(808) 550-4994

TRUDY MILANI TAKAYAMA
Representative
(808) 959-0132

PRO SE

IN THE SUPREME COURT OF THE STATE OF HAWAII

C. KAUI JOCHANAN AMSTERDAM)	PLAINTIFF'S MOTION FOR RECONSIDERATION, EXHIBIT A, B
Candidate for the US Senate)	
Plaintiff)	
vs.)	
DWAYNE D. YOSHINA)	
Chief Elections Officer for the State of Hawaii)	
Defendant)	

MEMORANDUM OF
PLAINTIFF'S MOTION FOR RECONSIDERATION

I. INTRODUCTION

The Plaintiff, C. Kaui Jochanan Amsterdam, along with some other similar candidates, was listed on the NONPARTISAN PARTY BALLOT by the Elections Office for the 2006 Primary Election as shown in Exhibit A herein.

When the Plaintiff, C. Kaui Jochanan Amsterdam, (herewith Plaintiff) asked the Elections Office why such a listing was used, he was directed to the Defendant's Attorney, who said it was used for "Bureaucratic convenience". While such use may have been convenient for the Elections Office, it was misinforming, misleading, and confusing for the voting public, contraindicated by points of law, inconsistent with basic reasoning, and mistakenly used by the Elections Office.

2. ARGUMENT

Points of law or case law demonstrate that the Elections Office's listing of the NONPARTISAN PARTY BALLOT was contraindicated.

First, the case of In Re Kelly's Nomination, 24 Pa. D. 205, Pa. com. Pl. I9I4, established that non-partisan candidates should be listed on a Non-Partisan Primary Ballot and not a Non-Partisan Party Ballot. Accordingly, in listing non-partisan candidates on a NONPARTISAN PARTY BALLOT, Hawaii's Election

Office mistakenly violated proper listing procedure.

Secondly, in the case of Davis vs State Election Bd. of Oklahoma, 762p. 2d. 932, Okl. 1988 (Sept. 13, 1988), the court recognized in Section 5-I05(A) that "candidate cannot be partisan and non-partisan at the same time". Accordingly, since he was listed by the Elections Office on the NONPARTISAN PARTY BALLOT, the Plaintiff was party affiliated, thereby partisan, and should reasonably treated as such; otherwise, the candidate is what the court says he cannot be- partisan and non-partisan at the same time. Because the Office of Elections did what the court said not to do, it created a situation, which was inconsistent with basic reasoning. Such a situation accordingly, misinformed, misled, and confused the voting public. Such a misinforming, misleading, and confusing situation is attested to by a current complaint filed with the Supreme Court of Hawaii by Daniel Cunningham and Thirty Registered Voters, who voted in the current 2006 Primary Election of Hawaii, in which the Thirty Registered Voters attest that they were misinformed, misled, and confused by the NONPARTISAN PARTY BALLOT, as presented in their complaint NO. 28I82 IN THE SUPREME COURT OF THE STATE OF HAWAII, see Exhibit B.

Thirdly, in the case of State v Torgerson, 57, N.D. I52, 220 N.W. 834, N.D. I928 (July 28, I28), the court ruled that that the use of the word "Party" is crucial and sufficient in changing or eliminating requirements for non-partisan candidates. According to the court,

In view of the policy clearly indicated in the general primary law to leave little room for the exercise of discretion by ministerial officers and to place upon aspirants for offices the duty of compliance with definite measure of sufficiency, we are of the opinion that the regulation and the measure of sufficiency contained in the general primary law remain applicable to the nonpartisan primary, modified only by a prohibition of the mention of

party affiliation of the candidate, which by necessary implication, in considering the number of petitions, also eliminates the 5 per cent requirement based upon the total vote cast for the candidate of the party with which the aspirant affiliates.

Accordingly, by its use of the term "Party" in the NONPARTISAN PARTY BALLOT, the Elections Office eliminated the ten per cent of the total votes cast for the office or vote equal to the lowest vote of a partisan candidate requirements pursuant to Part IV. Haw.Rev.Stat., Election Results, I2-4IResults of Elections (b) and instead applied (a) in which a person or persons receiving the greatest number of votes at the primary or special election of a candidate of a party for an office shall be the candidate of the party at the general or special election. Therefore, being unopposed and receiving the greatest number of votes at the primary or speical election as a candidate of the NONPARTISAN PARTY BALLOT for the office of US Senator, the Plaintiff shall be the candidate on the NONPARTISAN PARTY BALLOT at the general or special election of 2006 for which the Plaintiff humbly asks the Supreme Court of the State of Hawaii to sustain.

Finally, in the case of In Re Kay 508 So. 2d 329, Fla., 1987 (June 04, 1987), when similar ballots were used to make them appear the same, such similarity or giving appearance that partisan Democratic or Republican parties endorsed candidacy in a non-partisan race, warrants public reprimand and a reprimand was ordered by the Supreme Court. Accordingly, by it giving appearance or similarity to partisan and non-partisan candidates alike under a party label as demonstrated in Exhibit A, the Elections Office advanced the same censored, contraindicated action, which resulted in the reprimand of the Supreme Court of Florida.

3. PRAYER AND RELIEF

Wherefore, the Plaintiff pursuant to II-I72, Haw. Rev. Stat. has set forth causes that could cause a difference in the election results due to the actions of the Elections Office "mistakening using a NONPARTISAN PARTY BALLOT at odds or in contraindication

to points of law or case law, inconsistent with basic reasoning, and misinforming, misleading, and confusing for the voting public. Being Native Hawaiian and a descendant of the Kalakaua line, which dedicated, and Kamehameha V, Lot Kapuaiwa, who built Aliiolani Hale, the Supreme Court Building, I express a heart felt "Mahalo" for the Supreme Court of the State of Hawaii's consideration of the Plaintiff's Motion for Reconsideration and also pray for relief as follows:

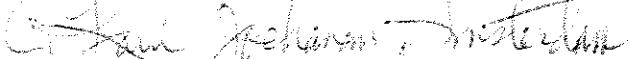
A. That based on points of law, reasoning, evidential knowledge, and all the above, the Court sustain the Plaintiff's Motion for Reconsideration.

B. That the Plaintiff's complaint be sustained and having been listed on the NONPARTISAN PARTY BALLOT be consistently treated and sustained as such consistent also with points of law or case law and as such advanced to the NONPARTISAN PARTY BALLOT of the General Election.

C. That the Court consider the Plaintiff's important and worthwhile goals to meet the needs of our Hawaiian People and People-at-large of Hawaii Nei, the United States, and the World and particularly being a Hawaiian Jew to advance the Aloha Spirit and Peace in the Middle East, which no candidates have pledged.

D. That the Court grant such and further relief as it shall deem just and proper.

Dated: Honolulu, Hawaii, October 12, 2006


G. Kaeui Jochanan Amsterdam
US Senator Candidate
Pro Se

PRIMARYvisit: HONOLULUADVERTISER.COM

EXHIBIT A

STATE HOUSE | McCULLY
URBAN LEAGUE

you need to know

RATION**OFFICIAL PRIMARY BALLOT CARD**

B

C

DEMOCRATIC PARTY BALLOT (D) (Purple)**U.S. Senator**
Vote for Not More than One (1)

AKAKA, Daniel

CASE, Ed

U.S. Representative
Vote for Not More than One (1)

ABERCROMBIE, Neil

KAAN, Alexandria

Governor
Vote for Not More than One (1)

AILA, William J., Jr.

IWASE, Randy

TANABE, Van K.

Lieutenant Governor
Vote for Not More than One (1)

HENKIN, David L.

MOOK, Michael (Manu)

SHIRATORI, Miles

SOLOMON, Malama

State Representative
Vote for Not More than One (1)

TAKUMI, Roy M.

LIBERTARIAN PARTY BALLOT (L) (Green)**U.S. Senator**
Vote for Not More than One (1) MALLAN, Lloyd Jeffrey**Governor**
Vote for Not More than One (1) DANIEL, Ozell**Lieutenant Governor**
Vote for Not More than One (1) ZHAO, Li**GREEN PARTY BALLOT (G) (Tan)****Governor**
Vote for Not More than One (1) BREWER, Jim**Lieutenant Governor**
Vote for Not More than One (1) ING, Renee**BOARD OF EDUCATION**
First School Board District
(City & County of Honolulu)**6th Departmental School District Seat (Windward)**

Vote for Not More than One (1)

 DeREGO, Kris PENEBACKER, John R. VIERLING, PAUL**No Departmental School District Residency**

Vote for Not More than Three (3)

 BASS, Michael CHING, Darwin L.D. GOLOJUCH, Carolyn Martinez HOEFT, Henry W., Jr. IKEDA, Donna R. IWAMOTO, Kim Coco KESSLER, Brian KIRKPATRICK, Malcolm KNUDSEN, Karen LEE, Philmund (Phil) LINVILLE, Marcia McDERMOTT, Bob

Plaintiffs to the Complaint contesting
Candidates in the 2006 Primary Election

EXHIBIT B

We the undersigned registered voters of the State of Hawaii, who voted in the 2006 Primary Election, present this complaint as Plaintiffs contesting the unfair treatment of Candidates of the Non-Partisan Party with claims and the misinforming, misleading, and confusing of the voting public by the Office of Elections of the State of Hawaii in the 2006 Primary Election.

Names

Address

Phone Number / Signature

<u>Paul Matsueda</u>	<u>1041 8th Ave</u>	<u>732-2242</u>	<u>Paul Matsueda</u>
<u>ALAN D. STACK</u>	<u>2121 ALAWAI #3202</u>	<u>922-1583</u>	<u>Alan Stack</u>
<u>AJWAN ASAD</u>	<u>98-239 PAHEMO ST</u>	<u>487-2928</u>	<u>AJwan Asad</u>
<u>(Carref Ichisaka 1435 Kaloko St., #17-3833, AJwan Asad)</u>			
<u>Devin R. Takaki: 936 first St. 455-8910 DW</u>			
<u>Madeleine Leslie 1235 Aliiolani # F 845-4399 Madeline Leslie</u>			
<u>SEVEN VILLACRIST 1326 Keeaumo St 224-6781 S. 786</u>			
<u>Kawika Flores 1576 MURPHY ST. 847-6200 K. Flores</u>			
<u>Pasma G. Acosta 1934 Elmwood 474-7512 Pasma G. Acosta</u>			
<u>Emerson P. L. 89050 91-621 KILOAA ST. #14 206-4243 JP</u>			
<u>Barbara Jengle 44 Akamai Pl 293-3618 Barbara Jengle</u>			

NORMAN T. YARA
CLERK, APPROPRIATE COURT
STATE OF HAWAII

OCT 11 2006
AM 10:47 AM
FEB 10
LE

Name

Address

Phone Number/ Signature

Denise Bui 94-1144 Hina St.
Kaaka St. 6713075 Denise Bui

Lilania Gay-ya Waipahu, Id: 618-9390 Lilania

Nani Nawae 44-2010 Kekai St.
Waipahu HI 96793-3232 Nani Nawae

Janet R. Caputo 5175 John St.
Honolulu HI 373-3721 Janet Caputo

Joyce A. More 1671 HOOLANA PL.
PEARL CITY, HI - 96782-1630 Joyce A. More

Winifred Kohlopp 860 Halekauwila #108
Honolulu, HI 96813 Winifred Kohlopp

Rodney S.L. Lum 922 Kapahala Ave #205
Hon. HI 96816 Rodney S.L. Lum

Bruhly G. Hayashi 1120 Hassinger St #202
Hon. HI 96822 Bruhly G. Hayashi

William R. Kealohamoku #23-324-1104

James Ward 1630 Liholiho St. 808-524-1742 James Ward

Winifred Garcia 1150 Kinau St., #209 Hon. HI 282-1716 Winifred Garcia

Continued

Name Address Phone Number/ Signature

FLORDELL OLNSTEAD 1616 Kewalo St. #207 531-5812 flor
Kathy K. Doney 1616 Kewalo St. #207 531-5812 Doney
RAYMOND OLMSTEAD 1616 KEWALO #207 531-5812 Raymond
Olmshead
Brya Ogata 1519 Piikoi St. Apt#252L-2486 Ogata
Ken Humphries 91-1016 Pauwai Pl Kapolei, HI Humphries
Terry Marks 1314 Piikoi St. Hon. HI No Calls Terry Marks
Ravena K. Keaka 2250 Kaulukau St. Hon. HI Ravena K. Keaka 96813-531-0029
Donette S. Carlisle 919B 12TH AVE., Hon., HI 96817 Donette S. Carlisle 343-1638
Heather Sikas 1903 Kihia St., Hon HI 96817 Heather Sikas
S. Izamizawa 3301 Hanover Rd. Hilo, HI 96822 988-7493
CARL GRUEBL 1551 S. Beretania #611 Hon HI 96826 Carl Gruebl
GREG MIRKA 91-102 Ahole Pl. Ewa Beach HI 804955 Mirka
Lauri Lum 3330 Moohkay Ave Honolulu, HI 96816 Lauri Lum
 295-2461

Continued

CERTIFICATE OF SERVICE

I hereby certify that a copy of PLAINTIFF'S MEMORANDUM was duly served upon the following party listed in the manner described thereto, their last-known address this date to:

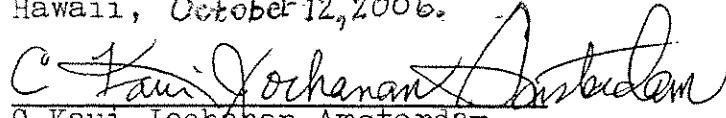
By US Mail

By Hand Mail

X

Dwayne D Yoshina
Chief Elections Officer
Elections Office
802 Lehua Ave.
Pearl City, Hawaii
96782

Dated at Honolulu, Hawaii, October 12, 2006.


C Kauai Jochanan Amsterdam
US Senate Candidate
Pro Se